

BILL NO. 07-05
As Amended

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND

BILL NO. 07-05 As Amended

Introduced by Council President Boniface at the request of the County Executive

Legislative Day No. 07-06 Date February 20, 2007

AN ACT to repeal and reenact, with amendments, Article II, Agricultural Land Preservation Program, of Chapter 60, Agriculture, of the Harford County Code, as amended; to provide a new codified Harford County Agricultural Land Preservation and Purchase of Development Rights Program; and generally relating to agricultural land preservation.

By the Council, February 20, 2007

Introduced, read first time, ordered posted and public hearing scheduled

on: March 20, 2007

at: 6:45p.m.

By Order: Barbara J. O'Connor, Council Administrator

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on March 20, 2007, and concluded on March 20, 2007.

Barbara J. O'Connor, Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

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Section 1. Be It Enacted By The County Council of Harford County, Maryland that Article II, Agricultural Land Preservation Program, of Chapter 60, Agriculture, of the Harford County Code, as amended, be and it is hereby repealed and reenacted, with amendments, all to read as follows:

Chapter 60. Agriculture

[Article II. Agricultural Land Preservation Program

§ 60-9. Adoption; legal status.

The Harford County 2006 Agricultural Land Preservation Program dated February 2006 (Harford County Purchase of Development Rights Program, February 2006) along with all its appendices is incorporated herein by reference as part of the chapter as though fully stated herein.]

ARTICLE II. AGRICULTURAL LAND PRESERVATION AND PURCHASE OF DEVELOPMENT RIGHTS PROGRAM

§ 60-9. PURPOSE AND INTENT.

THE PURPOSE OF THE HARFORD COUNTY AGRICULTURAL LAND PRESERVATION AND PURCHASE OF DEVELOPMENT RIGHTS PROGRAM IS TO PRESERVE PRODUCTIVE AGRICULTURAL LAND AND WOODLAND WHICH PROVIDES FOR THE CONTINUED PRODUCTION OF FOOD AND FIBER FOR THE CITIZENS OF THE COUNTY. THIS PROGRAM IS TO BE ADMINISTERED BY THE DEPARTMENT OF PLANNING AND ZONING AND THE HARFORD COUNTY AGRICULTURAL LAND PRESERVATION ADVISORY BOARD.

THIS PROGRAM FOCUSES ON THE PURCHASING OF DEVELOPMENT RIGHTS AND FAMILY CONVEYANCES FROM AGRICULTURAL LANDOWNERS AND RETIRING THOSE RIGHTS IN PERPETUITY. IF THE DEVELOPMENT RIGHTS ARE PURCHASED BY THE PROGRAM, AN EASEMENT IS PLACED ON THE PROPERTY. UNDER THIS EASEMENT, ALL FUTURE RESIDENTIAL SUBDIVISION OF THE PROPERTY IS RESTRICTED EXCEPT FOR OWNER/CHILD

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1 LOTS AS PERMITTED UNDER THIS PROGRAM. THIS IS A VOLUNTARY PROGRAM THAT
2 PERMITS ANY OWNER OF AGRICULTURAL LAND WHICH MEETS THE MINIMUM QUALIFYING
3 CRITERIA LISTED IN SECTION 60-12 OF THIS ARTICLE TO APPLY TO SELL THEIR
4 DEVELOPMENT RIGHTS AND FAMILY CONVEYANCES.

5 **§ 60-10. DEFINITIONS.**

6 AGRICULTURAL LAND – LAND USED PRIMARILY FOR AGRICULTURE WITH AN
7 AGRICULTURAL ZONING CLASSIFICATION AS IDENTIFIED ON THE MOST RECENTLY
8 APPROVED HARFORD COUNTY ZONING MAPS.

9 AGRICULTURAL PRESERVATION DISTRICT -- A MINIMUM 5 YEAR CONSERVATION
10 EASEMENT IN WHICH NO MONETARY VALUE HAS BEEN EXCHANGED FOR ITS PLACEMENT
11 ON THE LAND.

12 AGRICULTURAL USE – ANY USE OF LAND WHICH DIRECTLY CONTRIBUTES TO THE
13 PRODUCTION, PROCESSING OR STORAGE OF AGRICULTURAL PRODUCTS AS DEFINED BY
14 THE UNITED STATES DEPARTMENT OF AGRICULTURE, INCLUDING USES CURRENTLY
15 PERMITTED WITHIN THE AGRICULTURAL DISTRICT OF THE HARFORD COUNTY ZONING
16 CODE THAT ARE DIRECTLY RELATED TO AGRICULTURAL ACTIVITIES.

17 BASE MULTIPLICATION EASEMENT VALUE – A MULTIPLICATION FACTOR APPLIED TO
18 THE VALUATION WORKSHEET RESULTS TO PRODUCE A PER ACRE PRICE.

19 CHILD – NATURAL OR ADOPTED CHILD OF THE LANDOWNER.

20 CHILD'S LOT – A LOT OF 2 ACRES OR LESS, DESIGNATED FOR THE EXCLUSIVE
21 RESIDENTIAL USE OF A CHILD OF THE LANDOWNER OF RECORD AT THE TIME OF
22 EASEMENT SALE.

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1 COMMITMENT LETTER – AN OFFER MADE IN WRITING, FROM THE COUNTY TO THE
2 APPLICANT OF RECORD, SPECIFYING THE RANKING OF THE PROPERTY AND MONETARY
3 VALUE BEING OFFERED FOR THE PROPOSED EASEMENT.

4 DEVELOPMENT RIGHT – THE ABILITY TO CREATE A RESIDENTIAL LOT AS PERMITTED
5 UNDER THE EXISTING AGRICULTURAL ZONING CLASSIFICATION.

6 DEVELOPMENT RIGHTS EASEMENT – AN ENCUMBRANCE UPON THE LAND WHICH
7 RESTRICTS THE OWNER’S RIGHTS TO DEVELOP OR OTHERWISE USE THE LAND FOR
8 PURPOSES OTHER THAN AGRICULTURAL USES.

9 EASEMENT PRIORITY RANKING (EPR) – THE CRITERIA USED TO RANK APPLICATIONS
10 SUBMITTED TO THE AGRICULTURAL LAND PRESERVATION AND PURCHASE OF
11 DEVELOPMENT RIGHTS PROGRAM.

12 FAMILY CONVEYANCE – A PERMITTED LOT FOR ANY MEMBER OF THE IMMEDIATE
13 FAMILY OF THE OWNER OF RECORD AS OF FEBRUARY 8, 1977. IMMEDIATE FAMILY SHALL
14 BE LIMITED TO FATHERS, MOTHERS, BROTHERS, SISTERS, SONS AND DAUGHTERS.

15 HARFORD COUNTY AGRICULTURAL LAND PRESERVATION ADVISORY BOARD – A 5
16 MEMBER BOARD APPOINTED BY THE COUNTY EXECUTIVE AND CONFIRMED BY THE
17 COUNTY COUNCIL.

18 INSTALLMENT PURCHASE AGREEMENT (IPA) – A WRITTEN AGREEMENT BETWEEN
19 HARFORD COUNTY AND THE LANDOWNER OF RECORD AT THE TIME OF EASEMENT SALE
20 THAT PAYS THE LANDOWNER OVER A 10, 20 OR 30 YEAR TIME FRAME, ~~AT THE OPTION OF~~
21 ~~THE COUNTY~~ AS AGREED UPON BY THE COUNTY AND LANDOWNER, FOR THE PLACEMENT
22 OF A CONSERVATION EASEMENT ON THEIR PROPERTY.

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1 LANDOWNER – AN INDIVIDUAL(S) WHO IS THE OWNER OF RECORD OR AN ENTITY
2 WHICH IS THE OWNER OF RECORD, AN ENTITY SHALL INCLUDE ONLY THOSE INDIVIDUALS
3 WHO WERE MEMBERS OF THE ENTITY AT THE TIME THE DEED OF EASEMENT WAS
4 RECORDED.

5 MAXIMUM DEVELOPMENT RIGHT VALUE – THE ACTUAL EASEMENT VALUE PAID TO
6 THE LANDOWNER BASED ON THE NUMBER OF DEVELOPMENT RIGHTS ASSOCIATED WITH
7 THE PROPERTY, INCLUDING FAMILY CONVEYANCE LOTS.

8 MAXIMUM PER ACRE VALUE – AN AMOUNT THAT IS ESTABLISHED ~~ANNUALLY~~ BY
9 THE DEPARTMENT OF PLANNING AND ZONING WITH THE ADVICE OF THE HARFORD
10 COUNTY AGRICULTURAL LAND PRESERVATION ADVISORY BOARD AS THE PER ACRE
11 VALUE NOT TO BE EXCEEDED IN ANY EASEMENT AGREEMENT.

12 MAXIMUM EASEMENT PER ACRE VALUE – THE ACTUAL PER ACRE PRICE PAID TO THE
13 LANDOWNER BASED ON THE TOTAL VALUATION NUMBER MULTIPLIED BY THE BASE
14 MULTIPLICATION EASEMENT VALUE.

15 OWNER'S LOT – A LOT OF 2 ACRES OR LESS, DESIGNATED FOR THE EXCLUSIVE
16 RESIDENTIAL USE OF THE LANDOWNER OF RECORD AT THE TIME OF EASEMENT SALE.

17 SEVERE ECONOMIC HARDSHIP – A STATE OF FINANCIAL PERIL OF A LANDOWNER,
18 WHETHER CAUSED BY A NATURAL DISASTER, THE DISABILITY OF THE LANDOWNER OR
19 SOME OTHER OCCURRENCE. SEVERE ECONOMIC HARDSHIP CAN BE EVIDENCED BY
20 BANKRUPTCY PROCEEDINGS OR OTHER DOCUMENTATION.

21 SOIL CONSERVATION DISTRICT – A FEDERAL, STATE AND COUNTY FUNDED
22 ORGANIZATION IN HARFORD COUNTY DEVELOPED TO CONSERVE AND PROTECT SOIL AND
23 WATER QUALITY.

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1 SUBDIVISION – THE ACT OF DIVIDING PROPERTY INTO SMALLER PORTIONS THROUGH
2 THE COUNTY RESIDENTIAL SUBDIVISION PROCESS AS PROVIDED FOR IN SECTION 2.59 OF
3 THE SUBDIVISION REGULATIONS, AS AMENDED.

4 SURVEY – A LEGAL METES AND BOUNDS DESCRIPTION OF ACREAGE ALONG WITH A
5 RECORDABLE PLAT OF THE ENTIRE PROPERTY ENTERING INTO THE EASEMENT PROGRAM,
6 SHOWING ALL EASEMENT ENCROACHMENTS, DRIVEWAYS, STREAMS, BUILDINGS,
7 DWELLINGS, FENCE LINES AND THE DEMARCATION OF WOOD LINES, PERFORMED BY A
8 LICENSED SURVEYOR IN THE STATE OF MARYLAND. IT SHALL INCLUDE EXCEPTIONS TO
9 ANY COMMITMENT FOR TITLE INSURANCE UNLESS WAIVED BY THE DEPARTMENT OF
10 PLANNING AND ZONING, AND THE SURVEY SHOULD BE IN SUCH FORM AND SUBSTANCE SO
11 THAT THERE IS NO SURVEY EXCEPTION TO THE TITLE COMMITMENT OR TITLE INSURANCE
12 POLICY.

13 TENANT HOUSE – A DWELLING UNIT LOCATED ON AGRICULTURAL PROPERTY THAT
14 IS USED EITHER FOR OCCUPANCY BY IMMEDIATE MEMBERS OF THE FAMILY OWNING OR
15 OPERATING THE AGRICULTURAL USE OR BY EMPLOYEES ENGAGED IN AGRICULTURAL
16 ACTIVITIES ON THE PROPERTY.

17 WOODLAND – A BIOLOGICAL COMMUNITY DOMINATED BY TREES AND OTHER
18 WOODY PLANTS COVERING A LAND AREA OF 1 ACRE OR MORE.

19 **§ 60-11. AGRICULTURAL LAND PRESERVATION ADVISORY BOARD.**

20 A. THE COUNTY EXECUTIVE SHALL APPOINT AN AGRICULTURAL LAND
21 PRESERVATION ADVISORY BOARD, WHO IS CONFIRMED BY THE COUNTY COUNCIL. THE
22 AGRICULTURAL LAND PRESERVATION ADVISORY BOARD SHALL CONSIST OF 5 MEMBERS,

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1 AT LEAST 3 OF WHOM SHALL BE OWNER-OPERATORS OF FARMS WHO EARN 50% OR MORE
2 OF THEIR INCOME FROM FARMING.

3 B. EACH MEMBER OF THE AGRICULTURAL LAND PRESERVATION ADVISORY
4 BOARD SHALL BE APPOINTED FOR A 5 YEAR TERM OF OFFICE.

5 C. NO MEMBER SHALL SERVE FOR MORE THAN 2 CONSECUTIVE FULL TERMS.
6 APPOINTMENT TO FILL A VACANCY SHALL BE FOR THE REMAINDER OF THE UNEXPIRED
7 TERM.

8 D. THE CHAIRMAN OF THE AGRICULTURAL LAND PRESERVATION ADVISORY
9 BOARD SHALL BE APPOINTED BY THE COUNTY EXECUTIVE.

10 E. THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD SHALL HAVE
11 THE FOLLOWING RESPONSIBILITIES TO THE COUNTY AGRICULTURAL LAND PRESERVATION
12 AND PURCHASE OF DEVELOPMENT RIGHTS PROGRAM:

13 (1) TO ADVISE THE COUNTY WITH RESPECT TO THE ESTABLISHMENT OF
14 AGRICULTURAL PRESERVATION DISTRICTS AND THE PURCHASES OF EASEMENTS BY THE
15 COUNTY.

16 (2) TO ASSIST THE COUNTY IN REVIEWING THE STATUS OF AGRICULTURAL
17 PRESERVATION DISTRICTS AND EASEMENTS.

18 (3) TO ADVISE THE COUNTY CONCERNING PRIORITIES FOR AGRICULTURAL
19 PRESERVATION AND TO ASSIST THE COUNTY IN DEVELOPING CRITERIA FOR EVALUATING
20 AGRICULTURAL LAND APPLYING TO THE PROGRAM.

21 (4) TO PROMOTE THE PRESERVATION OF AGRICULTURAL LAND WITHIN THE
22 COUNTY BY OFFERING INFORMATION AND ASSISTANCE TO FARMERS WITH RESPECT TO

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1 THE ESTABLISHMENT OF AGRICULTURAL PRESERVATION DISTRICTS AND THE PURCHASE
2 OF EASEMENTS.

3 (5) TO ADVISE THE COUNTY IN REVIEW AND APPROVAL OF VARIOUS
4 REQUESTS AS ALLOWED BY THE CONSERVATION EASEMENTS AND DISTRICTS IN SUCH
5 MATTERS AS OWNER/CHILD LOTS, ALLOWED USES, ETC.

6 **§ 60-12. AGRICULTURAL PRESERVATION EASEMENT.**

7 A. CONDITIONS FOR ESTABLISHMENT. A LANDOWNER PARTICIPATING IN THE
8 HARFORD COUNTY AGRICULTURAL LAND PRESERVATION AND PURCHASE OF
9 DEVELOPMENT RIGHTS PROGRAM AGREES:

10 (1) TO MAINTAIN THE LAND IN AGRICULTURAL USE OR IN A PROPERLY
11 MANAGED STATE SO THAT IT IS AVAILABLE FOR CONTINUED AGRICULTURAL USE FROM
12 THE DATE THAT THE EASEMENT IS RECORDED IN THE LAND RECORDS OF HARFORD
13 COUNTY.

14 ~~(2) TO NOT ALLOW ANY TYPE OF LAND SUBDIVISION EITHER RESIDENTIAL~~
15 ~~OR AGRICULTURAL, OTHER THAN THAT OUTLINED IN THE EASEMENT AS OWNER/CHILD~~
16 ~~LOTS.~~

17 (2) TO NOT ALLOW ANY SUBDIVISION OF THE LAND FOR RESIDENTIAL
18 PURPOSES, OTHER THAN THAT OUTLINED IN THE EASEMENT AS OWNER/CHILD LOTS.

19 (3) TO IMPLEMENT AND MAINTAIN A SOIL AND WATER CONSERVATION
20 PLAN AS PREPARED BY THE SOIL CONSERVATION DISTRICT.

21 (4) TO ESTABLISH AN EASEMENT ON THE PROPERTY WHICH CREATES AN
22 ENCUMBRANCE UPON THE LAND AND BINDS FUTURE OWNERS, HEIRS, SUCCESSORS OR

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1 ASSIGNS AND WHICH PRECLUDES THE UTILIZATION OF THE LAND FOR NON-
2 AGRICULTURALLY RELATED USES. ANY AGRICULTURAL USES CURRENTLY PERMITTED
3 WOULD BE ALLOWED TO CONTINUE UNDER THIS AGREEMENT. THE EASEMENT
4 AGREEMENT SHALL NOT PROVIDE FOR PUBLIC ACCESS TO ANY PRIVATELY OWNED LAND.

5 (5) THAT CONSTRUCTION OF NEW BUILDINGS OR STRUCTURES ON THE
6 LAND, OTHER THAN FARM BUILDINGS, THAT DID NOT EXIST AT THE TIME OF DISTRICT OR
7 EASEMENT ESTABLISHMENT IS CONTINGENT UPON THE WRITTEN APPLICATION AND
8 APPROVAL BY THE DEPARTMENT OF PLANNING AND ZONING, SUBJECT TO REVIEW BY AND
9 RECOMMENDATION OF THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD.

10 (6) THAT FOR THOSE LANDOWNER'S WHOSE PROPERTY CONTAINS 25 OR MORE
11 ACRES OF CONTIGUOUS WOODLANDS, THE LANDOWNER MAY MAINTAIN A FOREST
12 STEWARDSHIP PLAN PREPARED BY A LICENSED FORESTER.

13 B. LOCATION CRITERIA. THE FOCUS OF THE PROGRAM WILL BE ON LANDS
14 AGRICULTURALLY ZONED AND LOCATED OUTSIDE OF THE COUNTY'S DESIGNATED
15 GROWTH AREAS AS DEFINED BY THE MOST RECENT LAND USE ELEMENT PLAN AND
16 OUTSIDE OF THE COUNTY'S 10-YEAR WATER AND SEWERAGE SERVICE AREA.

17 C. SIZE CRITERIA. THE COUNTY MAY NOT PURCHASE AN AGRICULTURAL
18 PRESERVATION EASEMENT OF LESS THAN 50 ACRES FROM A LANDOWNER UNLESS:

19 (1) IT IS CONTIGUOUS TO AN EASEMENT THAT IS 50 ACRES OR GREATER; OR
20 (2) THE LANDOWNERS ON THE ADJOINING PROPERTY(S), WHICH ARE LESS
21 THAN 50 ACRES BUT TOTAL AT LEAST 50 ACRES, APPLY AND ACCEPT THE COUNTY'S OFFER
22 TO PURCHASE AN EASEMENT; OR

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(3) THE LAND IS LOCATED IN A PREDOMINATELY AGRICULTURAL AREA
AND THERE IS A FARMING OPERATION ON THE PARCEL.

D. SOIL CRITERIA.

(1) PROPERTIES QUALIFIED FOR THE PROGRAM SHALL CONSIST OF LAND
WHICH IS EITHER USED PRIMARILY FOR THE PRODUCTION OF FOOD, FIBER OR TIMBER
PRODUCTION OR IS OF SUCH OPEN SPACE CHARACTER AND PRODUCTIVE CAPACITY THAT
CONTINUED AGRICULTURAL PRODUCTION IS FEASIBLE.

(2) EXCEPTIONS TO THE SOIL CRITERIA NOTED BELOW INCLUDE AREAS OF
EXISTING, EXTENSIVE, SPECIALIZED PRODUCTION, INCLUDING BUT NOT LIMITED TO
DAIRYING, LIVESTOCK, POULTRY, TURF, NURSERY, HORSE, FRUIT OR BERRY PRODUCTION
AS RECOMMENDED BY THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD.

(3) SOILS CRITERIA FOR LANDS EQUAL TO OR GREATER THAN 50 ACRES. AT
LEAST 50% OF THE LAND AREA PROPOSED FOR PRESERVATION, LESS THE ACREAGE
CONTAINED WITHIN THE 100 YEAR FLOODPLAIN AS DELINEATED ON THE FLOOD HAZARD
BOUNDARY MAPS, PRODUCED BY THE FEDERAL EMERGENCY MANAGEMENT
ADMINISTRATION AND STATE OR FEDERAL DESIGNATED WETLANDS, SHALL CONSIST OF
U.S.D.A SOIL CAPABILITY CLASSES I, II OR III ON CROPLAND AND PASTURE OR WOODLAND
GROUPS 1 AND 2 ON WOODLAND AREAS.

(4) SOILS CRITERIA FOR LANDS LESS THAN 50 ACRES. A MINIMUM OF 60%
OF THE LAND AREA PROPOSED FOR PRESERVATION SHALL CONSIST OF U.S.D.A. SOIL
CAPABILITY CLASSES I, II, III OR IV ON CROPLAND AND PASTURE AND WOODLAND GROUPS
1 AND 2 ON WOODED AREAS.

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E. PERMITTED USES. AN OWNER WHOSE LAND IS IN THE HARFORD COUNTY AGRICULTURAL LAND PRESERVATION AND PURCHASE OF DEVELOPMENT RIGHTS PROGRAM SHALL BE PERMITTED TO:

(1) USE THE LAND FOR ANY AGRICULTURAL USE AS DEFINED HEREIN AND AS PERMITTED IN THE HARFORD COUNTY ZONING CODE, INCLUDING THOSE PERMITTED IN SECTION 267.43(F) OF THE HARFORD COUNTY ZONING CODE, AS AMENDED.

(2) MAINTAIN THE LAND FOR FUTURE AGRICULTURAL USE.

(3) OPERATE AT ANY TIME MACHINERY USED IN AGRICULTURAL PRODUCTION OR THE PRIMARY PROCESSING OF AGRICULTURAL PRODUCTS. SUCH OPERATIONS SHALL NOT BE CONSIDERED A NUISANCE, EITHER PUBLIC OR PRIVATE, AS A RESULT OF CHANGED LAND USES IN AND AROUND THE PRESERVED PROPERTY.

(4) EMPLOY NORMAL AGRICULTURAL ACTIVITIES AND OPERATIONS IN ACCORDANCE WITH GOOD HUSBANDRY AND AGRONOMIC PRACTICES.

(5) SELL AGRICULTURAL PRODUCTS AS IS PERMITTED UNDER THE HARFORD COUNTY CODE.

F. EXCLUSION OF LOTS UNDER EASEMENT.

(1) OWNER'S LOT. THE LANDOWNER OF RECORD AT THE TIME OF EASEMENT SALE MAY, AT ANY TIME AFTER THE EASEMENT SALE, REQUEST THE EXCLUSION OF 2 ACRES OR LESS FOR THE EXCLUSIVE RESIDENTIAL USE OF THAT LANDOWNER. A LETTER MUST BE PROVIDED TO THE DEPARTMENT OF PLANNING AND ZONING REQUESTING THIS EXCLUSION AND VERIFYING THE OWNER'S INTENTION TO LIVE IN THIS DWELLING. THIS REQUEST IS SUBJECT TO REVIEW AND RECOMMENDATION BY THE

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1 AGRICULTURAL LAND PRESERVATION ADVISORY BOARD. IN ADDITION, THE BUILDING
2 PERMIT AND OWNER/OCCUPANCY PERMIT MUST BE IN THE OWNER'S NAME. THE OWNER'S
3 LOT MAY NOT BE SOLD OR TRANSFERRED FOR A PERIOD OF 5 YEARS FROM THE DATE OF
4 ISSUANCE OF THE USE AND OCCUPANCY PERMIT EXCEPT IN THE EVENT OF THE DEATH OR
5 LEGAL INCOMPETENCE OF THE OWNER OR IF THE LOT IS PART OF BANKRUPTCY
6 PROCEEDINGS; OR WITH APPROVAL OF THE DEPARTMENT OF PLANNING AND ZONING,
7 SUBJECT TO REVIEW AND RECOMMENDATION OF THE AGRICULTURAL LAND
8 PRESERVATION ADVISORY BOARD.

9 (2) CHILD'S LOT. THE LANDOWNER OF RECORD AT THE TIME OF EASEMENT
10 SALE MAY, AT ANY TIME AFTER THE EASEMENT SALE, REQUEST THE EXCLUSION OF 2
11 ACRES OR LESS FOR THE EXCLUSIVE RESIDENTIAL USE OF THE CHILD. A LETTER MUST BE
12 PROVIDED TO THE DEPARTMENT OF PLANNING AND ZONING FROM BOTH THE LANDOWNER
13 AND THE CHILD REQUESTING THIS EXCLUSION AND VERIFYING THAT IT IS THE INTENTION
14 OF THE CHILD TO LIVE IN THIS DWELLING. THIS REQUEST IS SUBJECT TO REVIEW AND
15 RECOMMENDATION BY THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD. IN
16 ADDITION, THE BUILDING PERMIT AND THE OWNER OCCUPANCY PERMIT MUST BE IN THE
17 CHILD'S NAME. THE CHILD LOT MAY NOT BE SOLD OR TRANSFERRED FOR A PERIOD OF 5
18 YEARS FROM THE DATE OF ISSUANCE OF THE USE AND OCCUPANCY PERMIT EXCEPT IN
19 THE EVENT OF THE DEATH OR THE LEGAL INCOMPETENCE OF THE CHILD OR IF THE LOT IS
20 PART OF BANKRUPTCY PROCEEDINGS; OR WITH APPROVAL OF THE DEPARTMENT OF
21 PLANNING AND ZONING, SUBJECT TO REVIEW AND RECOMMENDATION OF THE
22 AGRICULTURAL LAND PRESERVATION ADVISORY BOARD.

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(3) NUMBER OF PERMITTED LOTS. THE TOTAL NUMBER OF LOT EXCLUSIONS MAY NOT EXCEED 1 DWELLING UNIT PER 25 ACRES OR 4 LOTS PER EASEMENT PROPERTY, WHICHEVER IS LESS. LOTS SHALL NOT EXCEED 2 ACRES IN SIZE AND SHALL INCLUDE ALL COUNTY RIGHT-OF-WAY REQUIREMENTS. THE INCLUSION OF COUNTY RIGHT-OF-WAY REQUIREMENTS IN THE LOT SIZE CALCULATION MAY BE WAIVED BY THE DIRECTOR OF PLANNING FOR GOOD CAUSE SHOWN, WITH THE REVIEW AND RECOMMENDATION OF THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD. ALL COSTS ASSOCIATED WITH THE ESTABLISHMENT OF THE LOT SHALL BE PAID BY THE LANDOWNER. IN ADDITION, ANY LANDOWNER OF AN EASEMENT REQUESTING A LOT EXCLUSION SHALL BE REQUIRED TO REPAY THE COUNTY FOR THE LOT EXCLUDED. THIS REPAYMENT SHALL BE EQUAL TO THE AMOUNT PAID PER ACRE BY THE COUNTY.

G. TENANT HOUSES. THE LANDOWNER MAY REQUEST IN WRITING A TENANT HOME IN ACCORDANCE WITH CONDITIONS ESTABLISHED WITHIN SECTION 267-26(D)(6) OF THE HARFORD COUNTY ZONING CODE, AS AMENDED. THIS REQUEST SHALL BE SUBMITTED TO THE DEPARTMENT OF PLANNING AND ZONING. PRIOR TO A DECISION BY THE DEPARTMENT, THE REQUEST WILL BE SUBJECT TO THE REVIEW AND RECOMMENDATION OF THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD, WHO WILL CONSIDER THE DOCUMENTED NEED FOR SUCH A STRUCTURE. THE TENANT HOME MAY NOT BE SUBDIVIDED OFF OF THE EASEMENT PROPERTY.

H. APPLICATION TO SELL DEVELOPMENT RIGHTS.

(1) THE OWNER OF AGRICULTURAL LAND MEETING THE CRITERIA FOR PARTICIPATING IN THIS PROGRAM MAY, BY WRITTEN APPLICATION, OFFER TO SELL TO THE

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1 COUNTY AN EASEMENT ON THE ENTIRE CONTIGUOUS ACREAGE OF THE AGRICULTURAL
2 LAND.

3 (2) FOR EACH PARCEL BEING OFFERED, THE APPLICANT SHALL INCLUDE A
4 GENERAL DESCRIPTION OF THE PARCEL, INCLUDING ACREAGE AND THE CURRENT USE OF
5 THE LAND, AND THIS SHALL BE ACCOMPANIED BY A MAP OR PLAT FOR EACH SUBJECT
6 PARCEL AT A SCALE NO SMALLER THAN 1 INCH EQUALS 600 FEET. IN ADDITION, A
7 CERTIFIED COPY OF THE SOIL CONSERVATION PLAN, MADE OR REVISED WITHIN 10 YEARS
8 OF THE DATE OF THE APPLICATION, SHALL BE PROVIDED. THIS PLAN SHALL LIST SOIL
9 CONSERVATION AND WATER QUALITY PROBLEM AREAS ON THE LAND.

10 (3) ALL APPLICATIONS TO SELL EASEMENTS TO THE COUNTY SHALL BE
11 SUBMITTED TO THE DEPARTMENT OF PLANNING AND ZONING. THE DEPARTMENT, WITH
12 THE ADVICE OF THE TREASURY DEPARTMENT, SHALL ESTABLISH SPECIFIC DATES BY
13 WHICH APPLICATIONS TO SELL DEVELOPMENT RIGHTS MUST BE RECEIVED BY THE
14 DEPARTMENT OF PLANNING AND ZONING. WITHIN 60 CALENDAR DAYS AFTER THIS
15 DEADLINE, THE DEPARTMENT SHALL FORWARD ALL APPLICATIONS TO SELL
16 DEVELOPMENT RIGHTS TO THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD
17 FOR THEIR REVIEW.

18 (4) EACH APPLICATION SHALL BE REVIEWED AND RANKED BY THE
19 AGRICULTURAL LAND PRESERVATION ADVISORY BOARD IN ACCORDANCE WITH THE
20 COUNTY'S EASEMENT PRIORITY RANKING SYSTEM (EPR). ALL APPLICATIONS WILL BE
21 RANKED FIRST TO LAST WITH THE FIRST APPLICATION BEING THE APPLICATION WITH THE

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HIGHEST EPR SCORE. A MAXIMUM EASEMENT VALUE OR MAXIMUM DEVELOPMENT RIGHT
VALUE WILL THEN BE DETERMINED FOR EACH APPLICATION.

I. EASEMENT PRIORITY RANKING SYSTEM.
(TOTAL NUMBER OF POSSIBLE POINTS 300)

SOIL PRODUCTIVITY SCORE (100 PTS. MAX.)

LESA PROGRAM = ____/100 PTS.

FARMLAND CAPABILITY (50 PTS. MAX.)

(1) CROPLAND AND PASTURE

75%-100% CROPLAND AND PASTURE = ____/30 35 PTS.

50%-74% CROPLAND AND PASTURE = ____/20 25 PTS.

LESS THAN 50% CROPLAND AND PASTURE = ____/40 15 PTS.

~~(2)~~ PASTURE

~~75%-100% PASTURE~~ = ____/15 PTS.

~~50%-74% PASTURE~~ = ____/10 PTS.

~~LESS THAN 50%~~ = ____/5 PTS.

~~(3)~~ (2) HYDRIC OR HYDRIC INCLUSION SOILS

LESS THAN 20% = ____/15 PTS.

20% - 40% = ____/10 PTS.

41% - 60% = ____/5 PTS.

61% - 100% = ____/0 PTS.

LAND USE COMPATIBILITY (75 PTS. MAX.)

(1) DEVELOPMENT FACTORS

(A) PERCENTAGE OF AG DEVELOPMENT RIGHTS REMAINING ON
PROPERTY (AS OF FEBRUARY 8, 1977) (20 PTS. MAX.)

40% OR LESS = ____/5 PTS.

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1	41% - 60%	=	____/10 PTS.
2	61% - 80%	=	____/15 PTS.
3	81% - 100%	=	____/20 PTS.

(B) NUMBER OF FAMILY CONVEYANCES (20 PTS. MAX.)

6	1 TO 5	=	____/5 PTS.
7	6 TO 10	=	____/10 PTS.
8	11 TO 15	=	____/15 PTS.
9	16+	=	____/20 PTS.

(2) CONSISTENCY WITH COUNTY LAND USE PLAN (15 PTS. MAX.)

(A) IN A DESIGNATED RURAL LEGACY
AREA (WITHIN 2 MILES) = ____/10 PTS.

(B) IN AN AGRICULTURE DESIGNATION
ON THE LAND USE PLAN = ____/5 PTS.

(C) IN A PRIORITY PERSERVATION

AREA = ____/10PTS

(3) FARM SIZE (20 PTS. MAX.)

21	300+ ACRES	=	____/20 PTS.
22	200-300 ACRES	=	____/15 PTS.
23	100-199 ACRES	=	____/10 PTS.
24	50-99 ACRES	=	____/5 PTS.

PROTECTED LAND CONTIGUOUS TO SITE (30 PTS. MAX.)

(1) SITE IS CONTIGUOUS TO FARMLAND
WHICH IS PROTECTED BY RECORDED
CONSERVATION EASEMENT = ____/15 PTS.

(2) SITE IS CONTIGUOUS TO FEDERAL, STATE
OR COUNTY OWNED PARKLAND = ____/10 PTS.

(3) LAND IS CONTIGUOUS TO INTERIM
PROTECTED LAND (E.G., 5-YEAR AG

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PRESERVATION DISTRICT) = ____/5 PTS.

**EXISTING SOIL CONSERVATION PLAN APPROVED BY THE SOIL
CONSERVATION DISTRICT (10 PTS. MAX)**

(1) MEETS CURRENT MALPF REQUIREMENTS
AND PRACTICES APPLIED = ____/10 PTS.

(2) UPDATED WITHIN 10 YEARS AND
PARTIALLY APPLIED PRACTICES = ____/5 PTS.

(3) NO CURRENT APPROVED PLANS = ____/0 PTS.

OWNERSHIP (15 PTS. MAX.)

(1) FULL-TIME OWNER/OPERATOR = ____/15 PTS.

(2) LAND RENTED BY FULL-TIME FARMER = ____/10 PTS.

(3) PART-TIME OWNER/OPERATOR = ____/5 PTS.

(4) ABSENTEE LANDOWNER = ____/0 PTS.

**CONTRIBUTION TO CONTINUED VIABILITY OF AGRICULTURAL
COMMUNITY (10 PTS. MAX.)**

(1) SUBSTANTIAL CONTRIBUTION = ____/10 PTS.

(2) MODERATE CONTRIBUTION = ____/5 PTS.

(3) MINIMAL CONTRIBUTION = ____/0 PTS.

SPECIAL CONDITIONS (10 PTS. MAX.)

(1) ECONOMIC HARDSHIP = ____/10 PTS.

(2) YOUNG FARMERS = ____/10 PTS.

(3) OTHER (SPECIFY) _____ = ____/10 PTS.

TOTAL SCORE _____ **PTS.**

J. VALUE OF EASEMENT.

(1) THE ACTUAL EASEMENT VALUE PAID TO A LANDOWNER SHALL BE
BASED ON AN OVERALL EVALUATION OF THE PROPERTY USING FACTORS SUCH AS SIZE,
DEVELOPMENT POTENTIAL, BEST MANAGEMENT PRACTICES AND SOIL PRODUCTIVITY AND

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PERCENTAGE OF SOIL CLASS. THE EASEMENT VALUE PAID SHALL BE EITHER THE
MAXIMUM EASEMENT PER ACRE VALUE OR THE MAXIMUM DEVELOPMENT RIGHT VALUE,
WHICHEVER IS LOWER, AND IN NO CASE WILL THE EASEMENT VALUE EXCEED THE
MAXIMUM PER ACRE CAP. THE MAXIMUM EASEMENT PER ACRE VALUE IS DETERMINED
BY THE TOTAL VALUATION NUMBER MULTIPLIED BY THE BASE MULTIPLICATION
EASEMENT VALUE.

(2) THE BASE MULTIPLICATION EASEMENT VALUE, THE MAXIMUM
DEVELOPMENT RIGHT VALUE AND THE PER ACRE CAP SHALL BE REVIEWED BY THE
AGRICULTURAL LAND PRESERVATION ADVISORY BOARD ~~ON AN ANNUAL BASIS~~ EVERY 6
MONTHS TAKING INTO CONSIDERATION MARKET CONDITIONS, FUNDING AND DEMAND.
UPON THE RECOMMENDATION OF THE HARFORD COUNTY AGRICULTURAL LAND
PRESERVATION ADVISORY BOARD, THE DEPARTMENT OF PLANNING AND ZONING SHALL
ESTABLISH A BASE MULTIPLICATION EASEMENT VALUE, A MAXIMUM PER ACRE VALUE
AND A MAXIMUM PER RESIDENTIAL DEVELOPMENT RIGHT/CONFIRMED FAMILY
CONVEYANCE VALUE THAT THE COUNTY IS WILLING TO PAY A LANDOWNER.

K. VALUATION WORKSHEET.

LAND SIZE AND POTENTIAL:

BASE	100
SIZE (FARM ACREAGE/AG ZONING DENSITY)	+ ____
(1% OF BASE FOR EVERY 10 ACRES)	
TOTAL # OF DEVELOPMENT RIGHTS (INCLUDING FAMILY CONVEYANCE).....	+ ____
(6% OF BASE FOR EVERY DEVELOPMENT RIGHT AND 2% FOR EVERY FAMILY CONVEYANCE)	

1 **AGRICULTURAL LAND QUALITY:**

2 AVERAGE SOIL PRODUCTIVITY (LESA SCORE)..... +____

3 CROPLAND AND PASTURE SOILS
4 (SOIL ACREAGE X WEIGHT ÷ FARM AC.) X 100

5
6 CLASS I SOILS ____ X 1 +____

7 CLASS II SOILS ____ X .72 +____

8 CLASS III SOILS ____ X .50 +____

9 CLASS IV (QUALIFYING) SOILS ____ X .18 +____

10

11 WOODLAND GROUP

12 (WOODLAND ACREAGE X WEIGHT ÷ FARM AC.) X 100

13

14 CLASS I WOODLAND ____ X .50 +____

15 CLASS II WOODLAND ____ X .25 +____

16

17 DEDUCTION FOR HYDRIC AND HYDRIC INCLUSION SOILS

18 (ACREAGE X WEIGHT ÷ FARM AC.) X 100

19

20 HYDRIC SOILS ____ X .50 -____

21 HYDRIC INCLUSION SOILS ____ X .25 -____

22 (HYDRIC AND HYDRIC INCLUSION SOILS AS DEFINED
23 BY THE NATIONAL HYDRIC SOIL LIST)

24

25 APPROVED AND IMPLEMENTED SOIL CONSERVATION

26 DISTRICT PLAN (10% OF BASE) +____

27

28 **TOTAL VALUATION NUMBER** _____

29 **MAXIMUM EASEMENT VALUE:**

30 TOTAL VALUATION NUMBER ____ X BASE

31 MULTIPLICATION EASEMENT VALUE = \$ _____ PER ACRE

32

33

34 **MAXIMUM DEVELOPMENT RIGHT VALUE:**

35 NUMBER OF DEVELOPMENT RIGHTS REMAINING

36 ON THE PROPERTY _____

37 NUMBER OF POTENTIAL FAMILY CONVEYANCES _____

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TOTAL NUMBER OF POTENTIAL RIGHTS..... _____

____ POTENTIAL RIGHTS X DEVELOPMENT RIGHT VALUE OF \$ ____ = \$ ____

MAXIMUM PER ACRE CAP \$ ____

L. OFFERS.

(1) AFTER DETERMINATION OF THE EPR SCORE AND EASEMENT VALUE, OFFERS WILL BE MADE TO ALL QUALIFIED APPLICANTS. THE COUNTY SHALL MAKE OFFERS TO APPLICANTS A MINIMUM OF 2 TIMES A YEAR, SUBJECT TO THE AVAILABILITY OF FUNDS AND QUALIFIED APPLICANTS. THE APPLICANT WITH THE HIGHEST EPR SCORE SHOULD RECEIVE THE FIRST OFFER, THE APPLICANT WITH THE SECOND HIGHEST SCORE SHOULD RECEIVE THE SECOND OFFER AND SO ON UNTIL ALL FUNDS ARE EXPENDED. HOWEVER, THE COUNTY HAS THE FLEXIBILITY TO MODIFY THIS PROCEDURE IF ADEQUATE FUNDING IS NOT AVAILABLE FOR THE NEXT LANDOWNER IN LINE. IN THIS CASE, THE COUNTY MAY MAKE AN OFFER TO THE NEXT HIGHEST SCORE WHOSE MAXIMUM EASEMENT VALUE DOES NOT EXCEED AVAILABLE FUNDING.

(2) THE DEPARTMENT OF PLANNING AND ZONING WILL SEND EACH QUALIFIED LANDOWNER A COMMITMENT LETTER STATING THEIR EPR RANKING AND THE EASEMENT VALUE. ALL APPLICANTS MUST NOTIFY THE DEPARTMENT OF THEIR INTENTION TO ACCEPT OR REJECT THE OFFER, AND THEY MUST SPECIFY THEIR PAYMENT ALTERNATIVE. THE APPLICANT'S RESPONSE MUST BE IN WRITING AND RECEIVED BY THE DEPARTMENT WITHIN 15 DAYS OF RECEIPT OF THE COMMITMENT LETTER.

(3) THOSE APPLICANTS NOT RECEIVING AN OFFER SHALL AUTOMATICALLY BE CONSIDERED FOR THE NEXT ROUND OF EASEMENT SALE OFFERS. ALL OFFERS TO

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PURCHASE DEVELOPMENT RIGHTS FROM AGRICULTURAL LANDOWNERS MUST BE APPROVED BY THE HARFORD COUNTY BOARD OF ESTIMATES AND THE COUNTY COUNCIL. AS THE HARFORD COUNTY AGRICULTURAL LAND PRESERVATION AND PURCHASE OF DEVELOPMENT RIGHTS PROGRAM IS STRICTLY VOLUNTARY, NO LANDOWNER SHALL BE REQUIRED TO ACCEPT ANY OFFER MADE BY THE COUNTY TO PURCHASE THEIR DEVELOPMENT RIGHTS NOR SHALL THE COUNTY BE REQUIRED TO PURCHASE THE DEVELOPMENT RIGHTS ON FARMS NOT MEETING THE COUNTY'S MINIMUM EPR SCORE OF 150 POINTS.

M. PAYMENT ALTERNATIVES.

(1) THERE ARE 2 PAYMENT OPTIONS AVAILABLE THROUGH THE PURCHASE OF DEVELOPMENT RIGHTS PROGRAM. INSTALLMENT PURCHASE AGREEMENTS (IPA) ALLOW LANDOWNERS TO RECEIVE THE TOTAL VALUE OF THEIR EASEMENT OVER A 10, 20 OR 30 YEAR TIME PERIOD AT THE OPTION OF THE COUNTY AS AGREED UPON BY THE COUNTY AND LANDOWNER. LANDOWNERS MAY ALSO REQUEST A CASH PAYMENT IN WHICH THE LANDOWNER WILL RECEIVE THE TOTAL VALUE OF THE EASEMENT AT THE TIME OF SETTLEMENT. AFTER A PAYMENT OPTION IS SELECTED, IT CANNOT BE CHANGED AND IT IS CONTRACTUAL WITH THE LANDOWNER AT THE TIME OF SETTLEMENT.

(2) IF THE LANDOWNER REQUESTS THAT THE DEVELOPMENT RIGHTS BE PURCHASED IN A MANNER OTHER THAN THROUGH THE IPA METHOD, THE COUNTY, AFTER CONSIDERING PAST AND FUTURE IPA OBLIGATIONS AND CONSIDERING WHETHER FUNDS ARE AVAILABLE, SHALL OFFER TO PAY THE LANDOWNER IN CASH FOR THE PURCHASE OF DEVELOPMENT RIGHTS. IF FUNDS ARE NOT AVAILABLE FOR THE CASH PURCHASE OF

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1 DEVELOPMENT RIGHTS, THE LANDOWNER SHALL AUTOMATICALLY BE CONSIDERED FOR
2 THE NEXT ROUND OF EASEMENT SALE OFFERS.

3 (3) ONCE A LANDOWNER AGREES TO ACCEPT A COUNTY OFFER TO
4 PURCHASE HIS DEVELOPMENT RIGHTS, A CONTRACT BETWEEN THE COUNTY AND THE
5 INDIVIDUAL SELLER WILL BE WRITTEN. THIS CONTRACT WILL INCLUDE THE TOTAL
6 AMOUNT OF MONEY THAT THE COUNTY HAS AGREED TO PAY THE LANDOWNER AND SETS
7 THE TERMS OF THAT AGREEMENT.

8 N. INSTALLMENT PURCHASE AGREEMENT (IPA). IPA'S INCLUDE THE TOTAL
9 AMOUNT OF MONEY THAT THE COUNTY HAS AGREED TO PAY THE LANDOWNER AND
10 ESTABLISHES THE TERMS OF THAT AGREEMENT, INCLUDING THE FIXED INTEREST RATE
11 THAT THE LANDOWNER WILL RECEIVE AS PART OF THE ANNUAL PAYMENTS. THE
12 INTEREST RATE IS DETERMINED BY THE STRIP TREASURY RATE THE DAY PRIOR TO
13 SETTLEMENT. THE INSTALLMENT PURCHASES SHALL BE FOR 10, 20 OR 30 YEARS AT THE
14 ~~OPTION OF THE COUNTY~~ AS AGREED UPON BY THE COUNTY AND LANDOWNER, AND THE
15 LANDOWNER WILL RECEIVE A FINAL BALLOON PAYMENT OF THE PRINCIPAL AND ALL
16 UNPAID INTEREST UPON THE EXPIRATION OF THE INSTALLMENT PAY OUT PERIOD. THIS
17 AGREEMENT IS EXEMPT FROM THE PROVISIONS OF SECTIONS 9, 10 AND 11 OF ARTICLE 31
18 OF THE ANNOTATED CODE OF MARYLAND.

19 O. SETTLEMENT.

20 (1) SETTLEMENT SHALL BE MADE BY THE COUNTY WITHIN 120 DAYS OF
21 THE DATE OF COUNTY COUNCIL ACTION. A 60-DAY EXTENSION MAY BE REQUESTED IN
22 WRITING BY EITHER THE LANDOWNER OR THE COUNTY IN ORDER TO VERIFY DEED

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1 INFORMATION AND/OR PROVIDE AN UPDATED SURVEY OR OTHER INFORMATION NEEDED
2 BY THE COUNTY TO COMPLETE THE EASEMENT SALE PROCESS.

3 (2) PRIOR TO THE SELECTION OF A MUTUALLY AGREEABLE SETTLEMENT
4 DATE, THE COUNTY SHALL BE IN RECEIPT OF THE TITLE AND TITLE COMMITMENT FROM
5 THE ASSIGNED TITLE COMPANY, A SURVEY PROVIDED BY THE LANDOWNER AND ALL
6 OTHER SUBORDINATION AGREEMENTS OR OTHER DOCUMENTATION RELATED TO
7 OBTAINING A CLEAR TITLE.

8 P. EASEMENT RECORDATION. ONCE ALL NECESSARY DOCUMENTS HAVE BEEN
9 PROPERLY SIGNED, A DEED OF EASEMENT, RESTRICTING IN PERPETUITY FUTURE
10 DEVELOPMENT ON THE PROPERTY, SHALL BE RECORDED IN THE HARFORD COUNTY LAND
11 RECORDS ALONG WITH A RECORDED PLAT OF THE EASEMENT PROPERTY. THE FORM OF
12 THE DEED OF EASEMENT SHALL BE SIMILAR TO THE DEED OF EASEMENT ATTACHED
13 HERETO AND INCORPORATED HEREIN BY REFERENCE. ALL EASEMENTS SHALL RUN
14 CONCURRENT WITH THE LAND. THE COUNTY SHALL PAY ALL REASONABLE COSTS AT
15 SETTLEMENT FOR THE FOLLOWING: TITLE REPORT; TITLE INSURANCE; AND RECORDATION
16 FEES, IF APPLICABLE.

17 Q. ADDITIONS TO EXISTING EASEMENTS. THE PROCESS FOR ADDING LAND TO
18 EXISTING EASEMENTS SHALL BE THE SAME AS FOR THE INITIAL ESTABLISHMENT OF AN
19 EASEMENT. THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD SHALL
20 ESTABLISH A MINIMUM SIZE CRITERIA FOR THE ADDITION OF LAND CONTIGUOUS TO AN
21 EXISTING EASEMENT.

22 R. AGRICULTURAL SUBDIVISION. A LANDOWNER WHOSE PROPERTY IS SUBJECT TO AN

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EASEMENT UNDER THIS SECTION SHALL BE ENTITLED TO SUBDIVIDE THE PROPERTY INTO
SMALLER PARCELS SUBJECT TO THE FOLLOWING CONDITIONS:

(1) NO ADDITIONAL DWELLINGS SHALL BE PERMITTED ON PARCELS
CREATED THROUGH THE SUBDIVISION OF THE PROPERTY;

(2) ALL SUBDIVIDED PARCELS AND ANY REMAINING PARCEL SHALL BE AT
LEAST 25 ACRES, EXCEPT THAT PARCELS OF LESS THAN 25 ACRES MAY
BE CREATED IF COMBINED WITH AN ADJACENT PARCEL OR IF
APPROVED BY THE DEPARTMENT OF PLANNING AND ZONING, WITH
THE REVIEW AND RECOMMENDATION OF THE AGRICULTURAL LAND
PRESERVATION ADVISORY BOARD;

(3) NO TENANT HOUSE SHALL BE PERMITTED TO BE SUBDIVIDED FROM
THE ORIGINAL PROPERTY, AS THE PROPERTY EXISTED AT THE TIME
THE DEED OF EASEMENT WAS RECORDED; AND

(4) THE SUBDIVISION OF THE PROPERTY WILL NOT BE INCONSISTENT WITH
ANY SOIL CONSERVATION OR WATER QUALITY PLAN IN EXISTENCE
PRIOR TO THE SUBDIVISION.

S. REPORTS. THE COUNTY TREASURER SHALL SUBMIT TO THE AGRICULTURAL LAND
PRESERVATION ADVISORY BOARD ON A SEMI-ANNUAL BASIS, A REPORT DETAILING THE
REVENUES RECEIVED UNDER THE TRANSFER TAX, THE REVENUES EXPENDED FOR
AGRICULTURAL PRESERVATION LISTED BY PAYMENT METHOD, AND COST INCURRED TO
ADMINISTER THE AGRICULTURAL LAND PRESERVATION PROGRAM.

§ 60-13. AGRICULTURAL PRESERVATION DISTRICTS.

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1 THE HARFORD COUNTY AGRICULTURAL LAND PRESERVATION AND PURCHASE OF
2 DEVELOPMENT RIGHTS PROGRAM ALSO ALLOWS A LANDOWNER THE OPTION OF
3 ESTABLISHING AN AGRICULTURAL PRESERVATION DISTRICT. AN AGRICULTURAL
4 PRESERVATION DISTRICT IS A MINIMUM 5 YEAR AGREEMENT BY THE LANDOWNER NOT TO
5 DEVELOP THEIR LAND. IF A LANDOWNER APPLYING TO ESTABLISH AN AGRICULTURAL
6 PRESERVATION DISTRICT DOES NOT MEET THE STATE'S MINIMUM SIZE CRITERIA BUT
7 OTHERWISE QUALIFIES FOR THEIR PROGRAM, THE LANDOWNER MAY ESTABLISH AN
8 AGRICULTURAL PRESERVATION DISTRICT THROUGH THE COUNTY PROGRAM.

9 A. CONDITIONS FOR ESTABLISHMENT. A LANDOWNER AGREES:

10 (1) TO MAINTAIN THE LAND IN AGRICULTURAL USE FROM THE DATE THAT
11 THE DISTRICT IS RECORDED IN THE LAND RECORDS OF HARFORD COUNTY.

12 (2) THAT THE DISTRICT AGREEMENT CREATES AN ENCUMBRANCE UPON
13 THE LAND AND BINDS FUTURE OWNERS, HEIRS, SUCCESSORS OR ASSIGNS, AND WHICH
14 PRECLUDES THE UTILIZATION OF THE LAND FOR NON-AGRICULTURALLY RELATED USES
15 FOR A MINIMUM OF 5 YEARS. ANY AGRICULTURAL USES CURRENTLY PERMITTED WOULD
16 BE ALLOWED TO CONTINUE UNDER THIS AGREEMENT AS PERMITTED BY THE HARFORD
17 COUNTY ZONING CODE.

18 (3) THAT THE CONSTRUCTION OF BUILDINGS OR STRUCTURES ON THE
19 LAND OTHER THAN FARM BUILDINGS IS CONTINGENT UPON THE WRITTEN APPLICATION
20 AND APPROVAL BY THE DEPARTMENT OF PLANNING AND ZONING, SUBJECT TO REVIEW BY
21 AND RECOMMENDATION OF THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD.

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1 B. LOCATION CRITERIA. THE FOCUS OF THE PROGRAM WILL BE ON LANDS
2 ~~AGRICULTURALLY ZONED AND LOCATED OUTSIDE OF THE COUNTY'S DESIGNATED~~
3 ~~GROWTH AREAS AS DEFINED BY THE MOST RECENT LAND USE ELEMENT PLAN AND~~
4 ~~OUTSIDE OF THE COUNTY'S 10 YEAR WATER AND SEWERAGE SERVICE AREA.~~

5 C. SIZE CRITERIA. AN AGRICULTURAL PRESERVATION DISTRICT SHALL BE A
6 MINIMUM OF 50 CONTIGUOUS ACRES. HOWEVER, A PARCEL OF LESS THAN 50 ACRES MAY
7 QUALIFY AS A DISTRICT IF:

8 (1) IT ADJOINS A 50 ACRE PARCEL WHICH HAS BEEN APPROVED BY THE
9 COUNTY AS AN AGRICULTURAL PRESERVATION DISTRICT; OR

10 (2) IT HAS BEEN ADDED TO ONE OR MORE ADJOINING PARCELS WHICH
11 TOGETHER HAVE BEEN APPROVED BY THE COUNTY AS AGRICULTURAL PRESERVATION
12 DISTRICTS; OR

13 (3) THE LAND HAS AN AGRICULTURAL PRODUCTIVITY CAPABILITY HIGHER
14 THAN THE COUNTY AVERAGE AS DETERMINED BY THE UNITED STATES DEPARTMENT OF
15 AGRICULTURE.

16 D. SOIL CRITERIA.

17 (1) PROPERTIES QUALIFIED FOR THE PROGRAM SHALL CONSIST OF LAND
18 WHICH IS EITHER USED PRIMARILY FOR THE PRODUCTION OF FOOD, FIBER OR TIMBER
19 PRODUCTION OR IS OF SUCH OPEN SPACE CHARACTER AND PRODUCTIVE CAPACITY THAT
20 CONTINUED AGRICULTURAL PRODUCTION IS FEASIBLE.

21 (2) EXCEPTIONS TO THE SOIL CRITERIA NOTED BELOW INCLUDE AREAS OF
22 EXISTING, EXTENSIVE, SPECIALIZED PRODUCTION, INCLUDING BUT NOT LIMITED TO

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1 DAIRYING, LIVESTOCK, POULTRY, FRUIT OR BERRY PRODUCTION AS RECOMMENDED BY
2 THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD.

3 (3) SOILS CRITERIA FOR LANDS EQUAL TO OR GREATER THAN 50 ACRES. AT
4 LEAST 50% OF THE LAND AREA PROPOSED FOR PRESERVATION, LESS THE ACREAGE
5 CONTAINED WITHIN THE 100 YEAR FLOODPLAIN AS DELINEATED ON THE FLOOD HAZARD
6 BOUNDARY MAPS, PRODUCED BY THE FEDERAL EMERGENCY MANAGEMENT
7 ADMINISTRATION AND STATE OR FEDERAL DESIGNATED WETLANDS, SHALL CONSIST OF
8 U.S.D.A SOIL CAPABILITY CLASSES I, II OR III ON CROPLAND AND PASTURE OR WOODLAND
9 GROUPS 1 AND 2 ON WOODLAND AREAS.

10 (4) SOILS CRITERIA FOR LANDS LESS THAN 50 ACRES. A MINIMUM OF 60%
11 OF THE LAND AREA PROPOSED FOR PRESERVATION SHALL CONSIST OF U.S.D.A. SOIL
12 CAPABILITY CLASSES I, II, III OR IV ON CROPLAND AND PASTURE AND WOODLAND GROUPS
13 1 AND 2 ON WOODED AREAS.

14 E. PERMITTED USES. AN OWNER WHOSE LAND IS IN THE HARFORD COUNTY
15 LAND PRESERVATION AND PURCHASE OF DEVELOPMENT RIGHTS PROGRAM SHALL BE
16 PERMITTED TO:

17 (1) USE THE LAND FOR ANY AGRICULTURAL USE AS DEFINED HEREIN AND
18 AS PERMITTED IN THE HARFORD COUNTY CODE, INCLUDING THOSE PERMITTED IN SECTION
19 267.43(F) OF THE HARFORD COUNTY ZONING CODE, AS AMENDED.

20 (2) MAINTAIN THE LAND FOR FUTURE AGRICULTURAL USE.

21 (3) OPERATE AT ANY TIME MACHINERY USED IN AGRICULTURAL
22 PRODUCTION OR THE PRIMARY PROCESSING OF AGRICULTURAL PRODUCTS. SUCH

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1 OPERATIONS SHALL NOT BE CONSIDERED A NUISANCE, EITHER PUBLIC OR PRIVATE, AS A
2 RESULT OF CHANGED LAND USES IN AND AROUND THE PRESERVED PROPERTY.

3 (4) EMPLOY NORMAL AGRICULTURAL ACTIVITIES AND OPERATIONS IN
4 ACCORDANCE WITH GOOD HUSBANDRY AND AGRONOMIC PRACTICES, AS LONG AS THE
5 ACTIVITIES AND OPERATIONS DO NOT ENDANGER THE HEALTH AND WELFARE OF THE
6 CITIZENS OF THE COUNTY.

7 (5) SELL AGRICULTURAL PRODUCTS AS IS PERMITTED UNDER THE
8 HARFORD COUNTY CODE.

9 (6) USE THE LAND FOR ADDITIONAL CONSERVATION EASEMENTS AND
10 MITIGATION OFFSETS, SUCH AS BUT NOT LIMITED TO WETLANDS AND AFFORESTATION,
11 PROVIDED THAT THE USE DOES NOT IMPAIR ANY AGRICULTURAL USE ON THE LAND, THAT
12 THE USE IS NOT GREATER THAN 10% OF THE TOTAL ACREAGE OF THE PROPERTY AS THE
13 PROPERTY EXISTED AT THE TIME THE DEED OF EASEMENT WAS RECORDED AND THAT THE
14 USE IS APPROVED BY THE SOIL CONSERVATION DISTRICT.

15 F. EXCLUSION OF LOTS UNDER DISTRICT.

16 (1) OWNER'S LOT. THE LANDOWNER OF RECORD AT THE TIME OF DISTRICT
17 ESTABLISHMENT MAY, AT ANY TIME AFTER THE DISTRICT HAS BEEN ESTABLISHED,
18 REQUEST THE EXCLUSION OF 2 ACRES OR LESS FOR THE EXCLUSIVE USE OF THAT
19 LANDOWNER. A LETTER MUST BE PROVIDED TO THE DEPARTMENT OF PLANNING AND
20 ZONING REQUESTING THIS EXCLUSION AND VERIFYING THE OWNER'S INTENTION TO LIVE
21 IN THIS DWELLING. THIS REQUEST IS SUBJECT TO REVIEW AND RECOMMENDATION BY THE
22 AGRICULTURAL LAND PRESERVATION ADVISORY BOARD. IN ADDITION, THE BUILDING

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1 PERMIT AND THE OWNER/OCCUPANCY PERMIT MUST BE IN THE OWNER'S NAME. THE
2 OWNER'S LOT MAY NOT BE SOLD OR TRANSFERRED WITHIN 5 YEARS FROM THE DATE OF
3 RECORDING THE DISTRICT EXCEPT IN THE EVENT OF THE DEATH OR LEGAL
4 INCOMPETENCE OF THE OWNER OR IF THE LOT IS PART OF BANKRUPTCY PROCEEDINGS; OR
5 WITH APPROVAL OF THE DEPARTMENT OF PLANNING AND ZONING, SUBJECT TO REVIEW
6 AND RECOMMENDATION OF THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD.

7 (2) CHILD'S LOT. THE LANDOWNER OF RECORD AT THE TIME OF DISTRICT
8 ESTABLISHMENT MAY, AT ANY TIME AFTER THE DISTRICT HAS BEEN ESTABLISHED,
9 REQUEST THE EXCLUSION OF 2 ACRES OR LESS FOR THE EXCLUSIVE RESIDENTIAL USE OF
10 THE CHILD. A LETTER MUST BE PROVIDED TO THE DEPARTMENT OF PLANNING AND
11 ZONING FROM BOTH THE LANDOWNER AND THE CHILD REQUESTING THIS EXCLUSION AND
12 VERIFYING THAT IT IS THE INTENTION OF THE CHILD TO LIVE IN THIS DWELLING. THIS
13 REQUEST IS SUBJECT TO REVIEW AND RECOMMENDATION BY THE AGRICULTURAL LAND
14 PRESERVATION ADVISORY BOARD. IN ADDITION, THE BUILDING PERMIT AND THE OWNER
15 OCCUPANCY PERMIT MUST BE IN THE CHILD'S NAME. THE CHILD LOT MAY NOT BE SOLD
16 OR TRANSFERRED WITHIN 5 YEARS FROM THE DATE OF RECORDING THE DISTRICT EXCEPT
17 IN THE EVENT OF THE DEATH OR LEGAL INCOMPETENCE OF THE CHILD OR IF THE LOT IS
18 PART OF BANKRUPTCY PROCEEDINGS; OR WITH APPROVAL OF THE DEPARTMENT OF
19 PLANNING AND ZONING, SUBJECT TO REVIEW AND RECOMMENDATION OF THE
20 AGRICULTURAL LAND PRESERVATION ADVISORY BOARD.

21 (3) NUMBER OF PERMITTED LOTS. THE TOTAL NUMBER OF LOT
22 EXCLUSIONS MAY NOT EXCEED 1 DWELLING UNIT PER 25 ACRES OR 4 LOTS PER DISTRICT

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1 PROPERTY, WHICHEVER IS LESS. LOTS SHALL NOT EXCEED 2 ACRES IN SIZE AND SHALL
2 INCLUDE ALL COUNTY RIGHT-OF-WAY REQUIREMENTS. THE INCLUSION OF COUNTY RIGHT-
3 OF-WAY REQUIREMENTS IN THE LOT SIZE CALCULATION MAY BE WAIVED BY THE
4 DIRECTOR OF PLANNING FOR GOOD CAUSE SHOWN, WITH THE REVIEW AND
5 RECOMMENDATION OF THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD ALL
6 COSTS ASSOCIATED WITH ESTABLISHMENT OF THIS LOT SHALL BE PAID BY THE
7 LANDOWNER, AND THE DISTRICT WILL BE AMENDED TO IDENTIFY THE LOT(S) EXCLUDED.

8 G. TENANT HOUSES. THE LANDOWNER MAY REQUEST IN WRITING A TENANT
9 HOME IN ACCORDANCE WITH CONDITIONS ESTABLISHED WITHIN SECTION 267-26(D)(6) OF
10 THE HARFORD COUNTY ZONING CODE, AS AMENDED. THIS REQUEST SHALL BE SUBMITTED
11 TO THE DEPARTMENT OF PLANNING AND ZONING. PRIOR TO A DECISION BY THE
12 DEPARTMENT, THE REQUEST WILL BE SUBJECT TO THE REVIEW AND RECOMMENDATION
13 OF THE AGRICULTURAL LAND PRESERVATION ADVISORY BOARD, WHO WILL CONSIDER
14 THE DOCUMENTED NEED FOR SUCH A STRUCTURE. THE TENANT HOME MAY NOT BE
15 SUBDIVIDED OFF OF THE PROPERTY WHILE IN THE DISTRICT. NOR MAY IT BE SUBDIVIDED
16 IF THE PROPERTY IS GOING TO PROCEED TO SETTLEMENT UNDER ANY PRESERVATION
17 PROGRAM.

18 H. TERMINATION AND ALTERATION OF DISTRICTS. THE FOLLOWING PROVISIONS
19 ARE APPLICABLE ONLY TO LAND IN AGRICULTURAL PRESERVATION DISTRICTS ON WHICH
20 AN EASEMENT IS NOT HELD BY THE COUNTY OR THE STATE.

21 (1) A LANDOWNER MAY TERMINATE HIS PROPERTY'S INCLUSION IN AN
22 AGRICULTURAL PRESERVATION DISTRICT AT ANY TIME AFTER 5 YEARS FROM THE

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1 ESTABLISHMENT OF THE DISTRICT. NOTICE OF INTENTION TO TERMINATE MUST BE
2 SUBMITTED TO THE COUNTY AT LEAST 6 MONTHS PRIOR TO DISTRICT TERMINATION.

3 (2) SEVERE HARDSHIP. IF SEVERE ECONOMIC OR PERSONAL HARDSHIP
4 OCCURS, THE COUNTY MAY, ON AN INDIVIDUAL BASIS, RELEASE THE LANDOWNER'S
5 PROPERTY FROM AN AGRICULTURAL PRESERVATION DISTRICT AT ANY TIME. THE
6 LANDOWNER SHALL PETITION THE COUNTY, STATING SUCCINCTLY THE SEVERE HARDSHIP
7 THAT THE LANDOWNER IS SUSTAINING AND PROVIDING THE COUNTY WITH THE
8 FOLLOWING:

9 (A) A RECENT FINANCIAL STATEMENT WHICH SHOWS THE OWNER'S
10 COMPLETE ASSETS AND LIABILITIES AND A STATEMENT UNDER THE PENALTY OF PERJURY
11 THAT THE INFORMATION CONTAINED IN THE FINANCIAL STATEMENT IS TRUE AND
12 ACCURATE.

13 (B) OTHER INFORMATION ATTESTING TO THE SEVERE HARDSHIP
14 THAT THE LANDOWNER IS SUSTAINING, INCLUDING BY WAY OF EXAMPLE INFORMATION
15 FROM THE MORTGAGES, LIEN HOLDERS, CREDITORS, ATTORNEYS, THE INTERNAL
16 REVENUE SERVICE AND OTHER PARTY INTERESTS WHO ARE QUALIFIED TO ADDRESS THE
17 CONDITION OF THE LANDOWNER.

18 (C) TO THE EXTENT PERMITTED BY LAW, THE COUNTY SHALL DENY
19 PUBLIC ACCESS TO THE INFORMATION THE LANDOWNER HAS SUPPLIED THE COUNTY.

20 (D) THE QUESTION OF WHETHER SEVERE ECONOMIC HARDSHIP
21 EXISTS WILL BE DECIDED BY THE DEPARTMENT OF PLANNING AND ZONING WITH

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1 CONCURRENCE FROM THE COUNTY ATTORNEY AND THE AGRICULTURAL LAND
2 PRESERVATION ADVISORY BOARD.

3 (3) NO DEVELOPMENT PLANS MAY BE SUBMITTED TO THE DEPARTMENT OF
4 PLANNING AND ZONING PRIOR TO THE FORMAL TERMINATION OF THE DISTRICT.

5 (4) A LANDOWNER TERMINATING A DISTRICT ~~MAY~~ SHALL BE REQUIRED TO
6 PAY BACK TO THE COUNTY THE APPLIED TAX CREDIT GIVEN TO THE PROPERTY WHILE
7 UNDER A DISTRICT AGREEMENT.

8 **§ 60-14. INSPECTIONS.**

9 ALL PROPERTIES IN THE HARFORD COUNTY AGRICULTURAL LAND PRESERVATION AND
10 PURCHASE OF DEVELOPMENT RIGHTS PROGRAM WILL BE SUBJECT TO PERIODIC
11 INSPECTIONS. INSPECTIONS WILL BE CONDUCTED TO DETERMINE IF THE OWNER IS
12 COMPLYING WITH THE TERMS OF THE EASEMENT. A REPRESENTATIVE OF THE
13 DEPARTMENT OF PLANNING AND ZONING WILL CONDUCT THE INSPECTION. AT LEAST 1
14 MONTH PRIOR TO THE INSPECTION, THE DEPARTMENT SHALL GIVE THE LANDOWNER
15 ~~REASONABLE NOTICE~~ NOTICE, BY MAIL, OF INTENTION TO INSPECT THE PROPERTY,
16 AND ALL INSPECTIONS WILL BE CONDUCTED AT REASONABLE TIMES.

17 **§ 60-15. OUTREACH MEETINGS.**

18 THE DEPARTMENT OF PLANNING AND ZONING SHALL BE REQUIRED TO CONDUCT A
19 MINIMUM OF 2 COMMUNITY OUTREACH MEETINGS PER YEAR. THE COMMUNITY
20 OUTREACH MEETING SHALL BE HELD IN AN EFFORT TO INSTRUCT AND ENCOURAGE
21 PARTICIPATION IN COUNTY, STATE AND FEDERAL LAND PRESERVATION PROGRAMS.

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- 1 Section 2. And Be It Further Enacted that this Act shall take effect 60 calendar days from the date it
2 becomes law.

EFFECTIVE: June 10, 2007

The Council Administrator does hereby certify that fifteen (15) copies of this Bill are immediately available for distribution to the public and the press.



Council Administrator

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HARFORD COUNTY BILL NO. 07-05 As Amended

Brief Title Agricultural Preservation & Purchase of Development Rights Program

is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

Barbara J. O'Connor
Council Administrator

Date April 10, 2007

ENROLLED

Bill Bonfante
Council President

Date April 10, 2007

BY THE COUNCIL

Read the third time.

Passed: LSD 07-11

Failed of Passage: _____

By Order

Barbara J. O'Connor
Council Administrator

Sealed with the County Seal and presented to the County Executive for approval this 11th day of April, 2007 at 3:00 p.m.

Barbara J. O'Connor
Council Administrator



BY THE EXECUTIVE

David R. Craig
COUNTY EXECUTIVE

APPROVED: Date April 11, 2007

BY THE COUNCIL

This Bill No. 07-05 As Amended having been approved by the Executive and returned to the Council, becomes law on April 11, 2007.

EFFECTIVE DATE: June 10, 2007

Barbara J. O'Connor
Barbara J. O'Connor,
Council Administrator

BILL NO. 07-05
As Amended